

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

TIM JONES)
)
v.) NO. 3:05-0351
) JUDGE CAMPBELL
PHIL BREDESEN)

MEMORANDUM

Pending before the Court is Defendant's Motion to Dismiss (Docket No. 13). For the reasons stated herein, Defendant's Motion is GRANTED, and this action is DISMISSED.

FACTS

Plaintiff filed this action against Defendant Phil Bredesen, Governor of the State of Tennessee, challenging the constitutionality of two state statutes, Tennessee Code Annotated, Sections 40-39-111 and 40-39-211. Complaint (Docket No. 1), ¶ 14. Plaintiff sought money damages and declaratory relief.

Section 40-39-111, enacted in 2003, was replaced by Section 40-39-211 on August 1, 2004, and therefore no longer exists. Since the filing of Plaintiff's Complaint, Section 40-39-211 has been amended, effective August 1, 2005, so the challenged Section 40-39-211 no longer exists.

This Court previously held that a "John Doe" plaintiff demonstrated a likelihood of success on the merits that Section 40-39-211, prior to its amendment, violated the Ex Post Facto Clause of the U.S. Constitution. (Doe v. Bredesen, Case No. 3:04-0670). Following that ruling, the statute, as noted above, was amended, and the case was dismissed accordingly. The new statute, existing Section 40-39-211, has not been challenged before this Court.


DISCUSSION

Defendant argues, and Plaintiff has conceded, that Plaintiff cannot bring his claim for monetary relief. See Docket No. 15. Therefore, Defendant's Motion to Dismiss is GRANTED on this issue, and Plaintiff's claim for monetary damages is DISMISSED.

Plaintiff opposes dismissal of his claim for declaratory relief. The current amended statute, however, is not before this Court. Plaintiff's Complaint challenges statutes which no longer exist. The challenges of Plaintiff's Complaint are moot. There is no existing case or controversy before this Court.

Therefore, Defendant's Motion to Dismiss Plaintiff's claim for declaratory relief is also GRANTED, and those claims are also DISMISSED.

IT IS SO ORDERED.


TODD J. CAMPBELL
UNITED STATES DISTRICT JUDGE